

United States District Court

Western DISTRICT OF Texas

FILED

JUN 26 2008

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY [Signature] DEPUTY CLERK

UNITED STATES OF AMERICA

V.

Mario Arturo MORENO

CRIMINAL COMPLAINT

CASE NUMBER:

08-M-3496 G

I, the undersigned complainant, being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about **June 25, 2008** in **El Paso County**, in the **Western District of Texas** defendant(s) did, knowingly and intentionally possess with the intent to distribute **marijuana**, to wit: approximately **195.80 pounds** (gross weight) of **marijuana**, a Schedule I Controlled Substance; and did knowingly and intentionally import into the United States from the Republic of Mexico, approximately **195.80 pounds** (gross weight) of **marijuana**, a Schedule I Controlled Substance in violation of **Title 21 United States Code, Section(s) 841(a)(1) and 952(a)**.

I further state that I am an Immigration and Customs Enforcement **Special Agent** and that this complaint is based on the following facts:

See Attached Affidavit

Continued on the attached and made a part hereof: X Yes No

[Signature]
Signature of Complainant
Gregg Gregory, Special Agent

Sworn to before me and subscribed in my presence,

June 26, 2008

Date

Norbert J. Garney, U.S. Magistrate Judge

Name & Title of Judicial Officer

El Paso, Texas

City and State

[Signature]
Signature of Judicial Officer

AFFIDAVIT

On June 25, 2008, at approximately 5:05 PM, Customs and Border Protection Officers were conducting a pre-primary roving inspection at the Ysleta Port of Entry in El Paso, Texas, when Customs and Border Protection (CBP) Narcotics Detector Dog (NDD) "Outlaw" alerted and responded to the presence of drugs/narcotics. NDD "Outlaw" was being escorted by CBP Canine Enforcement Officer Lawrence F. Gardea when NDD "Outlaw" responded to the exterior undercarriage of a gold colored 2004 Honda Odyssey bearing Texas license plate number JDR-710. Mario Arturo MORENO was the driver and sole occupant of the gold colored van.

Customs and Border Protection Officers (CBPO) Thomas Jimenez and Troy A. Bryant observed NDD alert to the 2004 gold colored Honda Odyssey, and approached the vehicle where CBP Canine Enforcement Officer Gardea and his NDD "Outlaw" were located. CBPO Jimenez made initial contact with MORENO and advised MORENO that they were conducting enforcement operations. MORENO made a negative declaration except for groceries, and claimed ownership of the van that he was driving. CBPO Jimenez questioned MORENO as to the purpose of his trip to Mexico and MORENO stated that he had been given a ride into Mexico at approximately 2:00 P.M. to pick up his vehicle. MORENO stated that he had paid approximately \$150.00 dollars for body work done to his rear bumper and rear fender of the vehicle. CBPO Jimenez asked MORENO if he had a receipt for the work that had been done to his vehicle, and MORENO stated that he had not received one. During questioning, CBPO Jimenez noticed that MORENO seemed interested and observant of the NDD'S activity near the rear of the vehicle.

CBPO Bryant began inspecting the vehicle as CBPO Jimenez was questioning MORENO. CBPO Bryant opened the rear hatch of the van to inspect it. Being familiar with the make and model of the van, CBPO Bryant was aware that there was a factory compartment located in the rear of the vehicle. CBPO Bryant observed a sheet of wood that was covered with carpet concealing the natural factory compartment. CBPO Bryant lifted up the sheet of wood and observed multiple brown colored bundles that were located in the compartment. CBPO Bryant advised CBPO Jimenez of his findings, and MORENO was placed in hand restraints and escorted to the Customs and Border Protection head house.

The vehicle was driven to the secondary inspection area by CBPO Bryant for further inspection. Further inspection of the vehicle revealed one hundred and eighty (180) taped-wrapped bundles concealed within the rear compartment and the spare tire compartment located between the driver and passenger seats and the first rear seat. Each bundle contained a green leafy substance. A testable quantity of the green leafy substance was tested, and reacted positive for the properties of marijuana. The total gross weight of the marijuana was approximately 195.50 pounds.

Immigration and Customs Enforcement (ICE) Special Agents arrived at the Ysleta Port of Entry and were advised the facts of the case by Customs and Border Protection Officers. ICE Special Agents began interviewing MORENO in reference to his biographical information. Subsequent to Miranda warnings, MORENO stated that he would like the presence of an attorney before speaking any further to Special Agents. The interview was terminated at that time.

ICE Special Agents began to inspect the vehicle that MORENO had been driving. Special Agent (SA) Gregory sat in the driver seat of the vehicle and noticed that the smell of marijuana was pungent and overwhelming. SA Gregory also noticed that key for the vehicle was on a ring by itself, separate from another ring of keys which contained multiple keys. In SA Gregory's experience, it is common for individuals transporting illegal contraband to keep the vehicle key separate from other personal keys in order to transfer and or give the key to someone else in an expeditious manner. SA Gregory did notice that there appeared to be some paint work done on the rear bumper and rear fenders of the vehicle, but the paint did not look like it had been applied recently.

MORENO was taken to the El Paso County Detention Center pending his initial appearance court proceeding.

Case Agent is ICE SA Gregg Gregory

Seizure # - 2008SA0001847801